

Chapman Client Alert

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Current Issues Relevant to Our Clients

CMS Announces Eased Repayment Terms for Medicare Accelerated and Advance Payment Program Loans

Under the expanded Medicare Accelerated and Advance Payments Program (AAP Program), more than 22,000 Medicare Part A providers and 28,000 Medicare Part B suppliers requested and received accelerated or advance payments (AAP Loans) from the Centers for Medicare & Medicaid Services (CMS) to help ease financial strain and uncertainty caused by the COVID-19 pandemic.¹ On October 8, 2020, CMS announced amended repayment terms for these AAP Loans in accordance with the *Continuing Appropriations Acts, 2021 and Other Extensions Act* recently passed by Congress. As discussed in more detail below, the new repayment terms provide borrowers with new flexibility in the repayment timeline, including both (1) a delayed start for automatic repayment through recoupment and (2) a longer period to repay the AAP Loan.

Medicare Accelerated and Advance Payment Program – Eased Repayment Terms

Since the outset of the expanded AAP Program, CMS has advanced \$106 billion in Medicare advance payments to requesting Medicare Part A providers and Medicare Part B suppliers to help ease financial strain due to a disruption in claims submission and/or claims processing related to the COVID-19 public health emergency. These AAP Loans provided quick access to funds at time when many hospitals and other health care providers were facing an unexpected and unprecedented disruption in cash flow.

Under the AAP Program's original terms, borrowers were scheduled to begin repayments 120 days after the AAP Loan payment was issued. For borrowers who participated in the expanded AAP Program at its outset in April 2020, this would have meant that repayment was to begin as soon as August 2020, with the balance due in full within a 7 to 12-month period thereafter depending on the type of borrower. In addition, AAP Program borrowers faced the possibility of (1) having CMS recoup up to 100% of their Medicare payments during the repayment phase and (2) incurring a 10% interest rate on any outstanding balance after the repayment phase.

Due to active Congressional negotiations to soften AAP Program repayment terms, CMS unofficially delayed the start of any repayments that were to begin in August. Subsequently, the *Continuing Appropriations Act, 2021 and Other Extensions Act*, enacted on October 1, 2020,² amended the repayment terms for all Medicare providers and suppliers who requested and received AAP Loans during the COVID-19 public health

emergency. These new repayment terms were officially announced by CMS on October 8, 2020,³ and include the following:

- Repayment will now begin one year after the date of the issuance of the AAP Loan payment.
- During the first 11 months after repayment begins, repayment will occur through an automatic recoupment of 25% of Medicare payments otherwise owed to the borrower.
- During the succeeding six months, repayment will occur through an automatic recoupment of 50% of Medicare payments otherwise owed to the borrower.
- If the borrower is unable to repay the total amount of the AAP Loan through recoupment within 29 months, it will receive a demand letter requiring repayment of any outstanding balance, subject to an interest rate of 4%.

Sample AAP Loan Repayment Timeline

A sample repayment timeline for an AAP Loan received during the COVID-19 public follows:

Day 1: Provider receives AAP Loan payment.

Day 1 through Month 12: CMS continues to pay the provider as normal for Medicare claims submitted.

Month 13 through Month 23: Repayment through offset begins; CMS automatically starts recouping 25% of Medicare payments otherwise owed to the provider for an 11-month period.

Month 24 through Month 29: Repayment through offset continues; CMS's automatic recoupment increases to 50% of Medicare payments otherwise owed to the provider for another 6 months.

End of Month 29: If the provider is unable to repay the total amount of the AAP Loan during the previous 29-month period, CMS issues demand letter for the outstanding balance, subject to an interest rate of 4% if payment is not received within 30 days.

We suggest that borrowers establish a system to track their Medicare claims submitted, Medicare reimbursement received, and Medicare reimbursements recouped during the 29-month recoupment period in order to reconcile the payback process.

Any borrower that meets specified criteria related to "financial hardship" or "extreme hardship" under 42 CFR 401.607(c)(2) can request an Extended Repayment Schedule from its Medicare Administrative Contractor (MAC).

More detail regarding the AAP Program may be found on CMS's [AAP Program Fact Sheet](#) or [AAP Frequently Asked Questions](#) page, each of which may be updated or revised from time to time.

[For More Information](#)

For additional Chapman Insights addressing legal and regulatory developments related to the COVID-19 pandemic, please visit our [COVID-19 Legal and Regulatory Developments](#) webpage.

If you would like further information concerning the matters discussed in this alert, please Jennifer Koltse or the Chapman attorney with whom you regularly work:

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- 1 See CMS Announces New Repayment Terms for Medicare Loans made to Providers during COVID-19, available at: <https://www.cms.gov/newsroom/press-releases/cms-announces-new-repayment-terms-medicare-loans-made-providers-during-covid-19>.
- 2 P.L. 116-136.
- 3 Accelerated and Advance Payment Repayment & Recovery Frequently Asked Questions, Version Date, October 8, 2020, available at: <https://www.cms.gov/files/document/covid-advance-accelerated-payment-faqs.pdf>.

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